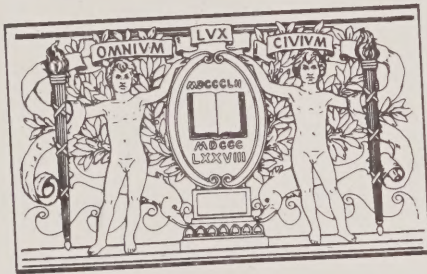


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A year later, midtown zoning nears reality

By John King
Globe Staff

When the Flynn administration last October bundled together the blocks along the east side of Boston Common and proclaimed their new identity as the Midtown Cultural District, planners said zoning could be in place by spring. They were right on the season, though wrong on the year.

Now, with the zoning's final draft made public last week, the cultural district's stage is set. Once the zoning is approved, which should take place within weeks, the time for planning will be past. Critics and boosters will finally get to see if the ambitious mixture of cultural requirements and development incentives can live up to its advance billing.

In the works for more than a year, the zoning is a critical part of the city's efforts to transform midtown into — to quote the district plan released in July — “a vibrant mixed-use district, with new and existing cultural facilities, homes, offices, shops and restaurants in new and renovated buildings.”

Today, it is more jumbled than vibrant. The area starts at Park Square, where condominium prices average \$1 million. It centers on the Combat Zone, where the dying adult entertainment outlets leave a seedy void. Further north are Downtown Crossing, Boston's main retail area, and the historic buildings lining side streets known as the “ladder blocks.”

City planners see midtown as a place of growth in the next decade: no less than 17 potential development sites exist, with nine in the active planning stages. Sizes range from 144 Boylston St., a small condo building that may break ground in 1989, to Commonwealth Center, a proposed \$450 million mixed-use complex, and Boston Crossing, which would rebuild Jordan Marsh and Lafayette Place and add two office towers and a Bloomingdale's.

Yet city planners also see midtown as a cultural hub with theaters and galleries clustered in the area where pornography once reigned. To build offices, developers must also build or renovate theaters. And preservation of older structures is stressed, as is new residential construction.

So the zoning that enforces such an agenda is critical. Though planners drafted it, at each stage there was review and comment from area activists, including the 200-member Midtown Cultural District Task Force, a citizens advisory group.

For all the mixing and matching, changes and revisions, participants express satisfaction with the current draft.

“I don't think anyone will be totally happy with the zoning, but having a document like this is extremely useful,” said Antonia Pollak, executive director of the Boston Preservation Alliance. “Social issues had to be meshed with the broad environmental issues. The process was extremely complicated.”

It also has the support of Bruce Rossley, director of the Mayor's Office of the Arts & Humanities. Rossley has lobbied for the district since 1984.

THE FOUR PROPOSED CATEGORIES

The new Midtown Cultural District zoning will be debated Thursday at the BRA board of directors meeting. Following a public comment period, a vote will occur in late December or early January.

There are four land-use categories:

● **As-of-right areas** where building heights of 155 feet are allowed, with a floor area ratio of 10. This area includes Park Square, where much urban renewal already has taken place.

● **Protection areas.** For the most part, development in these zones is restricted to a 125 foot height and an 8 FAR. The cap is tighter in the zone next to Bay Village: 65 feet, with FAR 4. Heights along the Common and Garden range from 85 to 155 feet.

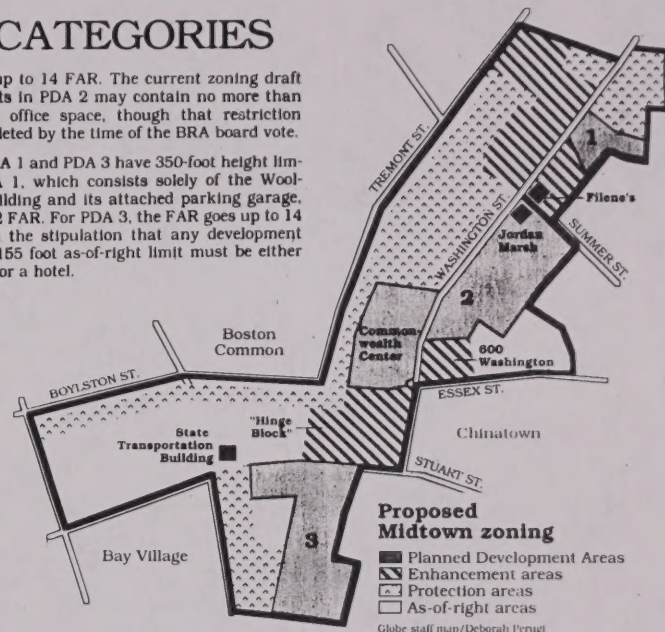
● **Enhancement areas.** If developers are more interested in speed than size, they can build to the as-of-right limits. But if they come up with a package of benefits that outweigh the project's burdens, they can go up to 235 feet and FAR 12.

● **Planned Development Areas.** The point of these three areas, says zoning, is to “encourage large-scale private development on underutilized sites . . . while insuring quality design by providing planning and design controls.”

Each area has its own rules. In PDA 2, the major area, the allowed height is between 250 and 400

feet, with up to 14 FAR. The current zoning draft says projects in PDA 2 may contain no more than 50 percent office space, though that restriction could be deleted by the time of the BRA board vote.

Both PDA 1 and PDA 3 have 350-foot height limits. In PDA 1, which consists solely of the Woolworth's building and its attached parking garage, there's a 12 FAR. For PDA 3, the FAR goes up to 14 — but with the stipulation that any development above the 155 foot as-of-right limit must be either residential or a hotel.



“It's amazing how similar the current plan is to what the arts community originally envisioned,” Rossley said. “Things have moved around a bit, but it's a great document.”

The basic ingredients haven't changed: cultural uses and daycare facilities are required in most new projects. There are elaborate design and environmental requirements, and a rule that developers must make “best effort” to include small neighborhood retailers in their projects.

But if the goal is the same, some methods are new. With daycare, for instance, the requirements call for certain sizes of centers: a complex of more than 1 million square feet must feature a 12,000-square-foot facility. Before, the formula was 2 percent of a project's size.

And preservation guidelines are now more explicit. The zoning calls for “protection areas” with 125-foot height caps and a floor-area ratio — the size of a building divided by the size of its site — of eight. This, planners say, will encourage owners to renovate buildings rather than demolish them.

“This is more of a fine grain approach,” said

Theodore Chandler, a Boston Redevelopment Authority lawyer. “The planning vision has stayed constant, but we've refined it with greater precision as a result of community input.”

Developers also benefit from the alterations. In each of the three “planned development areas” where sizable projects are encouraged, height limits were raised since July: from 235 to 350 feet in the north and south PDAs, and from 350 to 400 in the middle one, where Commonwealth Center and Boston Crossing are located.

And then there are the new “enhancement areas,” which make a virtue of flexibility. Seven blocks have a sliding height limit: developers can build a 155-foot tower with 10 FAR as of right, but if they make the case that the project has merit, it can grow to 235 feet and 12 FAR. By comparison, the new 101 Arch St. tower next to Filene's has a 12 FAR, but is 290 feet tall.

This departs from past BRA policy, which capped heights at 155 feet except in planned development areas. If passed, zoning will allow “enhancement” if “height and massing are architecturally compatible

with the surrounding area,” and if the project's benefits — such as housing creation or cultural improvements — outweigh such burdens as traffic and shadows.

“We'll invite some thoughtful proposals. This gives us the chance to weigh benefits and burdens in a limited number of cases,” BRA director Stephen Coyle said last week. “And if they don't make the test, they can build as of right.”

The new zones create potential new development sites.

For instance, enhancement raises the possibility of at least four new mid-sized towers near Washington Street, though no plans now exist. Two are Filene's, which is roughly 140 feet tall, and at 600 Washington St., a seven-story office building. The buildings might not be demolished — Filene's is up for landmark designation — yet zoning suggests extra floors could be added within each site, if the benefits criteria were met.

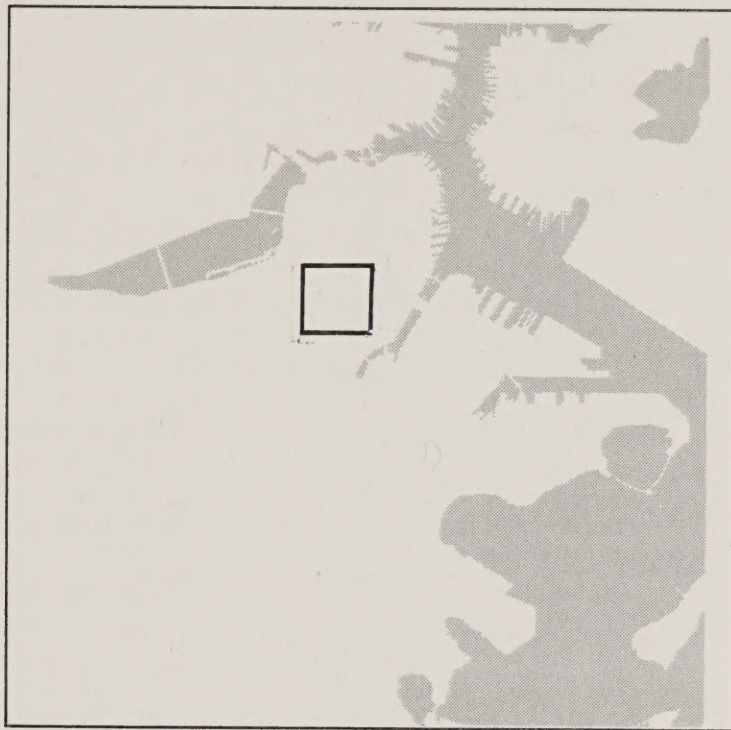
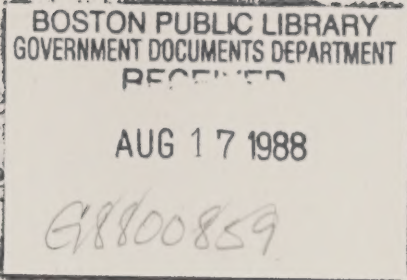
The other two sites are the block of Washington Street across from Filene's, owned by developer Ron-Continued on next page



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MIDTOWN CULTURAL DISTRICT PLAN



ZONING REGULATION



A PLAN TO MANAGE GROWTH

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OFFICE OF ARTS &
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COMMISSIONER

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Secretary

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MIDTOWN CULTURAL DISTRICT ZONING PLAN

Executive Summary

Introduction

New zoning for the Midtown Cultural District will create a legal mechanism that implements many of the policies outlined in the Midtown Cultural District Plan. The zoning plan can be approved only after both the BRA and the city's Zoning Commission hold public hearings. The primary purposes of the zoning plan are:

- o To manage the Downtown economy in a way that promotes balanced growth for Boston, by preventing overdevelopment of the Financial District and Back Bay commercial areas;
- o To revitalize Midtown as the city's center the performing arts, by creating new cultural facilities;
- o To protect and provide for expansion of the thriving Chinatown neighborhood, by creating affordable housing and by controlling institutional expansion;
- o To preserve the historic resources of the district by giving legal protection to 122 historic buildings and 8 landmarks; and
- o To create a new residential neighborhood downtown by constructing 3,000 new dwelling units, 900 of which will be affordable.

As one of the first permanent district plans to be created following the passage of the Downtown Interim Zoning Plan in September 1987, this comprehensive plan will be specially tailored to the unique character and demands of the various areas within the Midtown Cultural District. By setting firm guidelines, the zoning plan is intended to speed the revitalization of the district. Because one of the central purposes of this historic rezoning is to establish strict rules for development, the zoning plan will also provide, to the greatest extent possible, predictable regulations that minimize the number of variances sought by developers. Planned Development Areas ("PDAs") will be established in certain areas within the Midtown Cultural District, in which development will take place only in accordance with the Master Plan approved for the district.

As of Right Height and Density Regulations

In order to preserve the scale of the district and provide predictability in regulation, the zoning plan will allow a building height of 125' (155' upon design review, about 12 stories) and will limit building density to eight times the size of the building lot throughout the area (ten times with design review), except within the area adjacent to Bay Village, where a building height of 65' (about 5 stories) and a density of four times the size of the building lot will be allowed.

Density Bonus for Affordable Housing, Cultural Facilities, or Day Care Centers

Outside of the master plan Planned Development Areas, the zoning plan will permit a density bonus of up to 20% if a developer builds affordable housing, or up to 10% for construction of a theater or other cultural facility or for a large family care or day care center. To qualify for the density bonus for housing, at least 75% of the proposed project must be housing, with at least 10% of that space affordable to low- and moderate-income families. The developer may choose to provide the affordable housing elsewhere within the district or Chinatown, but in that case must create a number of affordable dwelling units equal to at least 15% of those built in the proposed project. The developer could also choose to build a theater or other cultural facility for which there is an identified need in the district, or provide a family care or day care center adequate to satisfy the demand for such a center of persons working within the proposed project.

Master Planning

A special master plan will govern development in certain Planned Development Areas. Contained within this zoning plan, the master plan sets forth the development concept for the area. It includes the planning objectives for the area, a statement of the character of the proposed uses of the areas, and the range of dimensional requirements contemplated for each of the proposed uses.

The zoning plan will allow additional building heights only in the specified Planned Development Areas, in accordance with the zoning plan's approved Master Plan for development. Within Planned Development Areas, projects must proceed according to a development plan approved after public hearings by the BRA and the Zoning Commission. The Board of Appeal must then approve exceptions for the additional height. Projects in approved Planned Development Areas must comply with design review requirements, described below under Design Regulations.

The range of building dimensions established in the Master Plan for particular sites have been determined on the basis of location within the district, developable site area, proposed uses, and the historic character of buildings currently on particular sites. For example, the maximum building height allowable within residential developments will be 235' (about 20 stories), with building density limited to twelve times the size of the building lot. Within the Bedford/Essex Corridor, which has excellent transportation access to South Station and the Massachusetts Turnpike and subways, building heights above 235' will be allowable up to a maximum of 400' (about 30 stories) on building lots which are close to an acre or larger. Building density within the Bedford/Essex Corridor will be limited to a maximum of fourteen times the size of the building lot.

Creating Cultural Facilities, Rehabilitating Historic Buildings, and Building Affordable Housing

Projects in PDAs must mitigate the negative impact of increasing land values in the district in one of the following ways:

- o the construction of an on-site theater or other cultural facility;

- o the rehabilitation of certain identified Landmarks, historic buildings and theaters;
- o the construction of on-site housing; ten percent of which must be affordable for low- and/or moderate-income households.

Neighborhood Business Opportunities

In order to preserve and promote opportunities for business establishments from the Chinatown and South Cove neighborhoods, the zoning plan provides that major new developments take affirmative actions to create neighborhood business opportunities. Using funds created by the Kingston-Bedford project's neighborhood business development fund, small businesses will be able to expand into the district.

Active Ground Level and Cultural Uses

To create an area attractive to pedestrians and residents, the zoning plan will allow the ground floors of all new development in the Midtown Cultural District to contain only active commercial or cultural uses. The presence of these uses at the ground floor will provide the level of activity essential to achieving renewed vitality in the area. To provide a further incentive for these uses, the lot size of a building containing active ground-level uses, space set aside for community services and day care facilities, and cultural uses will not be included in the calculation of building density. However, the space will be counted when calculating building heights.

Housing Priority Areas

The zoning plan will designate certain areas within the Midtown Cultural District as "Housing Priority Areas." Within these areas, the zoning plan will ensure that at least 75% of all development within the Housing Priority Area is for housing. The Housing Priority Areas will be established next to the Boston Common along Tremont Street, and south of Stuart Street adjacent to Bay Village and Chinatown.

Inclusion of Day Care or Family Care Centers

Developers of commercial projects exceeding 50,000 square feet (about the size of a six-story office building) will provide at least two percent of the space for a day care or family care center. In this way, more Boston residents will be able to participate in the city's economy as it grows. In addition, the space devoted to an on-site day care or family care facility will be excluded from the calculation of the project's density (but not height).

Uses Generally Allowed

Except where residential and active ground level uses are required, the zoning plan will allow a broad spectrum of uses throughout the Midtown Cultural District. Among the uses that will be allowed are: office; retail; commercial; residential; restaurant and entertainment; and service. To ensure future

manufacturing uses are not detrimental to the character of the district, they will, in the future, be permitted only conditionally.

The boundaries of the Adult Entertainment District will remain in their present, historical location. In order to respect constitutionally-protected liberties, the zoning plan effects no legal change in the district's status. Adult entertainment uses will be allowed only within that area.

The zoning plan will provide that certain other uses are permitted, but only if they will not be detrimental to the character of the area. In addition to light manufacturing uses, such conditional uses will include: parking lots or garages; automotive rental agencies; and institutional and wholesale uses. Projects containing such uses will not be forbidden, but will require community review and Board of Appeal approval.

Historic Preservation

No Additional Building Height and Density for Addition to Historic Buildings. In order to promote the preservation of historic buildings the zoning plan will exclude additions to such structures within a Planned Development Area from eligibility for building height and floor area which exceeds the historic height limit, and will prohibit the granting of exceptions for height and density for extension of a historic building.

Restrictions on Demolition and Change of Use of Theaters. In order to preserve the existing concentration of theater structures and uses in the Midtown Cultural District, the zoning plan will prohibit demolition or change of use of the existing theaters in the district. An existing theater can be demolished if the theater is unsafe and demolition is required under the State Building Code, or the Board of Appeal finds that demolition will not be detrimental to the character of the district. In addition, as a condition to allowing demolition, a new development on the lot that contained all or a portion of the theater to be demolished will be required to provide replacement space for cultural uses.

Design Regulations

The Midtown Cultural District has historically been part of the human scale and fabric of Boston. A major objective of the Midtown Cultural District Plan is to allow for freedom of design, while preserving and enhancing the District's historic architectural character. To implement this objective, the new zoning for the District will:

- o Provide that projects within Planned Development Areas must be architecturally compatible with their surrounding area, satisfy environmental criteria concerning shadows and wind, and be reviewed by the Boston Civic Design Commission.
- o Contain regulations providing for street wall continuity and street wall height to establish an attractive pedestrian area and avoid windswept plazas.

- o Establish set-backs for portions of buildings to ensure that sufficient light and air reach the street.
- o Limit the size of portions of buildings resulting in slender buildings rather than boxes.

In addition to the design review provisions, particularly applicable to projects in Planned Development Areas, every project in the district larger than about five stories will be subject to design review in accordance with the city's Development Review Requirements. The reviews assess a project's impact on the environment, the transportation and infrastructure systems, historic resources, the streetscape and the skyline.

Parking

Off-Street Parking. The zoning plan will not require off street parking in any development, except in housing development. Parking which is accessory to commercial projects will continue to be allowed to serve as an after-hours resource for visitors to the district.

Text Amendment Application No.
Boston Redevelopment Authority
Midtown Cultural District

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows.

By inserting after Article 37, the following article:

ARTICLE 38

MIDTOWN CULTURAL DISTRICT ZONING PLAN

SECTION 38-1. Statement of Purpose, Goals and Objectives. The purpose of this article is to establish a comprehensive plan for the Midtown Cultural District in accordance with the Downtown Zoning Plan adopted on September 25, 1987. The goals and objectives are to encourage further concentration of cultural and entertainment attractions in the Midtown Cultural District, the location of the region's foremost concentration of theaters and cultural facilities; to protect and provide expanded commercial and residential opportunities to the adjacent Chinatown neighborhood; to encourage the development of housing within multi-use complexes or independent structures in the Midtown area; to provide direction and incentives for balanced growth of the downtown economy toward underutilized sites in the Midtown area, where there is a planned relationship between the transportation system and development and away from congested areas; to preserve the buildings of historic, cultural, and architectural interest and importance which characterize this district; to reserve the Midtown Cultural District for office, retail, hotel, housing, entertainment, and cultural uses appropriate for this historic cultural area; to provide the family care and day care facilities necessary for all Boston residents to participate in the downtown economy; to enhance

Downtown Crossing as Boston's historic shopping district; to regulate the scale and character of Park Square and the edge along the Boston Common and Public Garden; to provide comprehensive planning for development in the Essex Street corridor; to promote the pedestrian orientation of ground floor uses, which make Midtown vital, and create an active pedestrian and street life; to provide freedom of architectural design within limits which assure adequate access of light and air to the streets and avenues of the Midtown area, and thus encourage more attractive and economic buildings; to relate the type, design, massing, and layout of land uses and structures to particular sites in a manner that conforms to the general intent and purpose of the Midtown Cultural District Plan; to ensure flexibility in land use planning and development; to mitigate the negative impact of increasing land values, caused by permitting new development which exceeds the historic building height limit, on the preservation of existing affordable housing, historic buildings, and vacant and operating cultural facilities in the district; and to promote the most desirable use of land and building development in accordance with the Midtown Cultural District Plan.

SECTION 38-2. Adoption of the Midtown Cultural District Plan. The commission hereby adopts the Midtown Cultural District Plan as the general plan for the Midtown Cultural District, in accordance with Section 27D-18 of the Downtown Zoning Plan regarding Special Study Areas (enacted September 25, 1987) which requires production of a set of comprehensive planning policies, development controls, and design guidelines specifically tailored to the unique character of the district. The district includes several distinct areas, such as Downtown Crossing and Park Square. This zoning plan is one of the means of implementing the Midtown Cultural District Plan, the preparation of

which is the responsibility of the Boston Redevelopment Authority acting pursuant to Section 70 of Chapter 41 of the General Laws, Section 652 of the Acts of 1960, and Section 3 of Chapter 4 of the Ordinances of 1952. These laws provide that the Boston Redevelopment Authority shall from time to time make studies and reports on the resources, possibilities and needs of the city, and acting by a majority of all its members, shall make and from time to time add to or amend a master plan for the improvement and development of the city, showing, in addition to such other things as in the opinion of the Boston Redevelopment Authority will promote the coordinated improvement and development of the city and the health, safety and welfare of its inhabitants, existing and recommended use and bulk districts and pierhead and bulkhead lines, existing and recommended use of land for public and private purposes, existing and recommended public and private ways and parkways, existing and recommended bridges, viaducts and tunnels, existing and recommended parks, playgrounds and recreational facilities, and existing and recommended sites of public buildings, works and projects, including housing and urban redevelopment projects and off-street parking facilities.

SECTION 38-3. Physical Boundaries. The provisions of this article are applicable only in the Midtown Cultural District, which includes portions of Downtown Crossing south of School Street, the Essex Street Corridor and Chinatown, the central Cultural District, and Park Square. The boundaries of the Midtown Cultural District, depicted in Appendix A to this article, are described as follows: From the intersection of Boylston Street and Arlington Street southeasterly along the centerline of Boylston Street until the intersection of Boylston Street and Tremont Street; northerly along the centerline of Tremont Street until the intersection of Tremont Street and

School Street; southeasterly along the centerline of School Street until the intersection of School Street and Washington Street; southwesterly along the centerline of Washington Street until the intersection of Washington Street and Milk Street; southeasterly along the centerline of Milk Street until the intersection of Milk Street and Arch Street; southerly along Arch Street until the intersection of Arch Street and Hawley Place; westerly along the centerline of Hawley Place until the intersection of Hawley Place and Hawley Street; southwesterly along the centerline of Hawley Street until the intersection of Hawley Street and Summer Street; southeasterly along the centerline of Summer Street until the intersection of Summer Street and Chauncy Street; southwesterly along the centerline of Chauncy Street until the intersection of Chauncy Street and Bedford Street; easterly and northeasterly along the centerline of Bedford Street until the intersection of Bedford Street and the Fitzgerald Expressway; southwesterly along the centerline of the Fitzgerald Expressway until the intersection of the Fitzgerald Expressway and Essex Street; northwesterly along the centerline of Essex Street until the intersection of Essex Street and Washington Street; southerly along the centerline of Washington Street until the intersection of Washington Street, Stuart Street, and Kneeland Street; westerly along the centerline of Kneeland Street for a distance of approximately 260 feet; southwesterly in a straight line to the southeasterly corner of the Tufts/N.E.M.C. Parking Garage; southerly in a straight line to the centerline of Washington Street; westerly along the centerline of Washington Street until the intersection of Washington Street and Oak Street; northwesterly along the centerline of Oak Street and Tremont Street until the intersection of Tremont Street and Charles Street South; northeasterly along the centerline of Charles Street South until the intersection of Charles Street South and Stuart Street; westerly along the center-

line of Stuart Street until the intersection of Columbus Avenue, Stuart Street, and Arlington Street; northerly along the centerline of Arlington Street until the intersection of Arlington Street and Boylston Street. These boundaries include several distinct areas, such as Park Square and Downtown Crossing.

SECTION 38-4. Applicability. Any Proposed Project within the Midtown Cultural District is subject to the provisions of this article. This article and Underlying Zoning together constitute the zoning regulations for the Midtown Cultural District. Such provisions of Article 27D (Text Amendment No. 98) as are applicable to the Midtown Cultural District are repealed on the effective date of this article. Where conflicts between this article and the Underlying Zoning exist, the provisions of this article govern. Except where specifically indicated in this article, the provisions of this article supersede Articles 13 through 23 of this code. The following Proposed Projects, however, are exempt from the provisions of this article.

1. Any Proposed Project for which application to the Inspectional Services Department for a building or use permit has been made prior to the first notice of hearing before the Zoning Commission for adoption of this article and for which no Zoning Relief is required.
2. Any Proposed Project for which appeal to the Board of Appeal for any Zoning Relief has been made prior to the first notice of hearing before the Zoning Commission for adoption of this article, provided that such Zoning Relief has been or thereafter is granted by the Board of Appeal pursuant to such appeal.

SECTION 38-5. Building Height and Floor Area Ratio Regulations. Proposed Projects for exterior construction or exterior alteration or interior addition to floor area within the Midtown Cultural District are governed by the building height and floor area ratio (FAR) regulations established in this section.

1. Midtown Cultural District As-of-Right Building Height and FAR. Any Proposed Project which has complied with the provisions of this article and Underlying Zoning is allowed to obtain an "as-of-right" building height of one hundred twenty-five (125) feet and FAR of eight (8), subject to the following provisions.

- (a) Within that portion of the Midtown Cultural District depicted in Appendix A as the Bay Village Edge, a maximum building height of sixty-five (65) feet, and a maximum FAR of four (4), is allowed.
- (b) An Applicant may request the Board of Appeal to grant any Proposed Project an enhanced building height of up to one hundred fifty-five (155) feet and an FAR of up to ten (10). The Board of Appeal shall grant such enhanced building height and FAR only if it finds that: (i) the height and massing of the Proposed Project is consistent with that of structures in the surrounding subdistrict; (ii) the Proposed Project is architecturally compatible with the surrounding subdistrict, in accordance with the design review provisions of Section 31-8; and (iii) the public benefits of the Proposed Project outweigh any burdens imposed. The procedure for the granting of enhanced building height and FAR shall be in accordance with the provisions of Section 6A-2, governing the procedures for the grant of an exception.

2. Boston Common and Public Garden Protection Areas. The building height provisions of Section 38-5(1) notwithstanding, and subject to the provisions of Section 38-5(3), any Proposed Project within one hundred (100) feet of the nearest street line of any street described below shall not exceed the height specified for such street as follows:
- (i) Tremont Street from Hamilton Place to West Street: 125 feet maximum height.
 - (ii) Tremont Street from West Street to Boylston Street: 155 feet maximum height.
 - (iii) Boylston Street from Tamworth Street to Park Square: 130 feet maximum height.
 - (iv) Boylston Street from Park Square to the westerly sideline of Hadassah Way, to a depth of 75 feet from Boylston Street: 130 feet maximum height; beyond said depth of 75 feet: 155 feet maximum height.
 - (v) South side of Boylston Street from the westerly sideline of Hadassah Way to a point 100 feet west of Arlington Street to a depth of 50 feet from Boylston Street: 85 feet maximum height; beyond said depth of 50 feet: 130 feet maximum height.
3. Rooftop Additions to Historic Buildings. The Board of Appeal shall not grant exceptions for height or FAR to any Proposed Project which is a rooftop addition to an Historic Building. The maximum building height for such a rooftop addition shall be one hundred twenty-five (125) feet. No rooftop addition shall be visible from the portion of any Major Street adjacent to the subject Historic Building. Historic Buildings subject to the provisions of this article are listed in Appendix D of this article, and Major Streets are listed in Table C of Section 38-10.
4. Floor Area Exclusion for Certain Ground Level Uses, Neighborhood Businesses, On-Site Day Care or Family Care Centers, Community Service Organizations, Adult Entertainment Uses, and Non-Profit Cultural

Uses. The floor area of any Proposed Project leased pursuant to the Neighborhood Business Opportunities provision of this article (Section 38-9(3)), or devoted to Ground Level Uses, on-site day care or family care centers, community service organizations, temporary housing shelters, Adult Entertainment Uses or non-profit Cultural Uses, shall be excluded from the calculation of the Proposed Project's gross floor area up to an FAR of one (1).

5. Incentive FAR for Provision of Housing, Cultural Facilities, or Day Care or Family Care Center. An Applicant may request the Board of Appeal to grant any Proposed Project which is not located within the Bay Village Edge, or any Proposed Project which is in conformity with the provision of this section, an incentive FAR for: the provision of housing, in accordance with the provisions of paragraph (a) of this section; the construction of a theater or other Cultural Facility within the Midtown Cultural District, in accordance with the provisions of paragraph (b) of this section; or, the provision of a family care center or a day care center in accordance with the provisions of paragraph (c) of this section. Any incentive granted pursuant to the provisions of this paragraph is additional to the Proposed Project's as-of-right or enhanced FAR. The procedure for the granting of incentive FAR shall be in accordance with the provisions of Section 6A-2 governing the grant of exceptions; provided that, if the Boston Redevelopment Authority has made a recommendation to the Board of Appeal or the grant of such incentive FAR, the Board of Appeal shall follow such recommendation unless specific, written reasons for not doing so are incorporated in the Board of Appeal's decision.

- (a) Incentive FAR for Provision of Housing. The Board of Appeal may grant an incentive FAR of up to 2 for the provision of on-site housing, provided that: (i) at least seventy-five percent (75%) of the Proposed Project's gross floor area is devoted to Residential Uses; (ii) a minimum of 0.7 off-street parking space is provided for each dwelling unit; and either (iii) ten percent (10%) of dwelling units in the Proposed Project are Affordable; or (iv) the Applicant agrees to create Affordable dwelling units elsewhere in the Midtown Cultural District or Chinatown in amount equal to fifteen percent (15%) of the dwelling units in the Proposed Project.
- (b) Incentive FAR for Construction of a Theater or Other Cultural Facility. The Board of Appeal may grant an incentive FAR of up to 1 for construction of a theater or other Cultural Facility within the Midtown Cultural District, provided that: (i) the theater or other Cultural Facility is of a size and type which is appropriate, under the circumstances pertaining at the time of the building permit application, to achieve the balance of Cultural Facilities responsive to the needs of the Midtown Cultural District, as identified in the Midtown Cultural District Plan; (ii) the Proposed Project includes, where necessary, facilities to support theater operations such as administrative offices, rehearsal/studio space, or storage space; and (iii) the Applicant provides a management plan for occupancy and continued use of the theater or Cultural Facility for Cultural Uses, which plan includes evidence of a commitment, such as a lease or other legal commitment from a prospective theater or facility

operator; and (iv) the Midtown Cultural District Trust* has approved such Cultural Facility construction and management plan as being in substantial conformity with the Midtown Cultural District Plan.

(c) Incentive FAR for Provision of Family Care or Day Care Facilities.

The Board of Appeal may grant an incentive FAR of up to 1 for the provision of family care or day care facilities which exceed three thousand five hundred (3,500) square feet in gross floor area or equivalent value. The provision of family care or day care facilities is governed by Section 38-9(4). The incentive FAR for provision of family care or day care facilities is not available to Proposed Projects requiring development plan approval within Planned Development Areas.

(d) Guidelines for Determining Amount of Incentive Floor Area for Construction of On-Site Theater or Other Cultural Facility or for Provision of Day Care or Family Care Center or Affordable Housing.

The value of the amount of incentive floor area which the Board of Appeal may grant for construction or rehabilitation of an on-site theater or other Cultural Facility is equal to four (4) times the average cost per square foot of providing new or rehabilitated theater or other Cultural Facility space; which cost shall be determined from time to time by the Boston Redevelopment Authority

* The Midtown Cultural District Trust, or a comparable legal entity, will be created by the necessary means with the authority to carry out this function, as well as other management and promotional activities within the Midtown Cultural District.

in conjunction with the Midtown Cultural District Trust. The value of the amount of incentive floor area which the Board of Appeal may grant for a provision of family care or day care center is equal to four (4) times the average cost per square foot of providing such a center; which cost shall be determined from time to time by the Boston Redevelopment Authority in conjunction with the Boston Women's Commission. The value of the amount of incentive floor area which the Board of Appeal may grant for a provision of Affordable housing is equal to four (4) times the average cost per square foot of providing Affordable housing; which cost shall be determined from time to time by the Boston Redevelopment Authority in conjunction with the Neighborhood Housing Trust.

6. Height and FAR Regulations for Lots with Variable Grades. Any Proposed Project within the Midtown Cultural District permitted to obtain a building height of one hundred fifty-five (155) feet and an FAR of ten (10) may, by exception to this code as provided in this subparagraph and in Article 6A, be permitted to exceed the enhanced building height and FAR standards set forth in this section. The Board of Appeal shall permit such an exception for building height or FAR only if it finds, in addition to all other conditions required under paragraph 1(c) of this section, that such an exception: (i) is in harmony with the general purpose and intent of this code; (ii) is related to variations in the grade level of the Proposed Project's lot; and (iii) is in substantial accord with the provisions governing building height and FAR set forth in this section and, where applicable, in light of all applicable provisions of Article 31 taken as a whole.

SECTION 38-6. Master Plan for Planned Development Areas. This article establishes the master plan for development within the Midtown Cultural District. This article also establishes three Planned Development Areas ("PDAs") within the Midtown Cultural District; and no other PDAs shall be established within the Midtown Cultural District. Within these PDAs, a Proposed Project which is not in conformity with the provisions of Section 38-5 shall proceed only in accordance with a specific development plan, approved by the Boston Redevelopment Authority and the commission after a public hearing in conformity with the procedure set forth in Section 3-1A. Any application for development plan approval for development within a Planned Development Area ("PDA") within the Midtown Cultural District is subject to, and shall not be approved except in conformity with, the provisions of this section and Sections 38-7 and 38-8, in addition to those imposed in Article 3-1A. Development plan approval is not required for any Proposed Project that conforms with the provisions of Section 38-5.

1. Master Plan for Planned Development Areas; Statement of Development Concept. In accordance with the provisions of Section 3-1A, this paragraph sets forth the statement of the development concept governing PDAs within the Midtown Cultural District. The planning objectives and character of the development are as set forth in Section 38-1, and as follows: (a) to create housing on Washington Street which complements existing large-scale housing development; (b) to channel large-scale commercial development along underutilized sites in the Bedford-Essex corridor; (c) to create a link between downtown and the Back Bay, and between Chinatown and the Boston Common and Public Garden, and to create a focal point for the district on underutilized sites along Tremont Street south of Stuart Street; (d) to preserve the scale of the Hinge

Block in light of its relation to the Chinatown neighborhood; (e) to preserve the scale of Park Square in light of its relation to the Bay Village neighborhood and the Public Garden; (f) to preserve the scale of the blocks between Bromfield Street and West Street; and (g) to protect the Boston Common as an open space reserve by providing for building heights which step down along the high spine as they approach the Common; and (h) to protect and rehabilitate Boston's historic entertainment center as its cultural district. In addition to location within the district, building height and density standards have been determined on the basis of developable parcel area, uses, and concentrations of historic buildings currently on particular sites. The proposed land uses for the planned development areas are as set forth in Section 38-9. The range of dimensional requirements contemplated for each of the proposed uses are as set forth in Table A of this section.

TABLE A
MIDTOWN CULTURAL DISTRICT
MASTER PLAN FOR PLANNED DEVELOPMENT AREAS
MAXIMUM BUILDING HEIGHT AND FAR BY EXCEPTION*

	<u>PDA Height/ FAR Standards</u>
PDA-I	
o Blocks 1, 2, 3, and 6	155'/10
o Blocks 4, 5, and 7	235'/12
PDA-II	
o Blocks 1, 2, and 3	250-350'/12-14
o Blocks 4, 5, 6, and 7	155'/10
o Block 8	400'/14
o Block 9	300'/14
PDA-III	
o Blocks 1, 4, and 6	235'/12
o Blocks 2, 3, and 5	155'/10

*Notwithstanding the foregoing provisions, the maximum building height and FAR permitted within any Housing Priority Area shall be two hundred thirty-five (235) feet and an FAR of 12.

2. **Proposed Phasing of Construction.** Construction of Proposed Projects within the Planned Development Areas is planned to occur in more than one phase. The first phase began in early 1986, and contains hotel, entertainment, office, and public service uses, including the Quality Inn (completed), 125 Summer Street, and the Boston Edison/Kingston Street Substation (currently under construction). It is anticipated that a separate development plan will be submitted for each Proposed Project. A single Proposed Project may also be built in phases.
3. **Location of Planned Development Areas.** Within the Midtown Cultural District, a development plan may only be approved for development within the areas depicted in Appendix A to this article as "PDA-I," "PDA-II," and "PDA-III."
4. **Standards for Development Plan Approval.** Before transmittal to the commission, a development plan shall have been approved by the Boston Redevelopment Authority after a public hearing, provided, however, that no development plan shall be approved by the Boston Redevelopment Authority unless the Boston Redevelopment Authority finds that such development plan conforms to: (a) the provisions of this section and Sections 38-7 and 38-8; (b) the general plan for the Midtown Cultural District and the Downtown Zoning Plan and the city as a whole; and (c) on balance, nothing in such development plan will be injurious to the neighborhood or otherwise detrimental to the public welfare.
5. **Height and FAR Exceptions.** No development plan shall be approved by the Boston Redevelopment Authority unless each Proposed Project described in the development plan is in substantial accord with the

building height and FAR standards set forth in this paragraph; and, subject to the provisions of this paragraph and Section 38-8(7), any Proposed Project for which the commission has approved a development plan may, by exception to this code as provided in Section 38-8(7) and in Article 6A, be permitted to exceed the "as-of-right" building height and FAR standards set forth in Section 38-5, in accordance with the standards set forth in Table A to this paragraph.

SECTION 38-7. Planned Development Areas; Public Benefit Criteria. The Boston Redevelopment Authority shall approve a development plan for a Proposed Project in a PDA within the Midtown Cultural District only if it finds, in addition to other conditions required under Section 3-1A, that the development plan proposes public benefits which outweigh the burdens imposed by, and mitigate the impact of, increased height and density in accordance with and as specified by the provisions of this section. The Boston Redevelopment Authority may approve a development plan for: (a) the construction of an on-site theater or other Cultural Facility, in accordance with the provisions of paragraph one, below, of this section; (b) the rehabilitation of Landmarks, existing theaters, and Historic Buildings within the Midtown Cultural District, in accordance with the provisions of paragraph two of this section; or (c) the provision of on-site housing, in accordance with the provisions of paragraph five of this section. The Boston Redevelopment Authority shall not approve a development plan unless the plan proposes a day care or family care facilities, in accordance with the provisions of Section 38-9(4). The total amount of additional floor area available for provision of these mitigating public benefits is cumulative, up to the maximum floor area permissible as set forth in Table A of Section 38-6. The

floor area exclusion for certain ground level uses, neighborhood businesses, family or day care centers, community service organizations, adult entertainment uses, and non-profit cultural uses applies to Proposed Projects within the PDAs.

1. Development Plan Approval for Construction of On-Site Theater or Other Cultural Facility. The Boston Redevelopment Authority may approve a development plan only if: (a) the development plan proposes construction of a new theater or other Cultural Facility, within the Midtown Cultural District, of a size and type which is appropriate, under the circumstances pertaining at the time of the building permit application, to achieve the balance of cultural facilities responsive to the needs of the Midtown Cultural District, as identified in the Midtown Cultural District Plan; (b) the development plan provides for construction of sufficient facilities to support theater operations, such as administrative offices, rehearsal/studio space, or storage space; (c) the Applicant provides a management plan for occupancy and continued use of the theater or Cultural Facility for Cultural Uses, which plan includes evidence of a commitment such as a lease or other legal commitment from a prospective theater or facility operator; and (d) the Midtown Cultural District Trust* has approved such Cultural Facility construction and management plan as being in substantial conformity with the Midtown Cultural District Plan.

* The Midtown Cultural District Trust, or a comparable legal entity, will be created by the necessary means with the authority to carry out this function, as well as other management and promotional activities within the Midtown Cultural District.

2. Development Plan Approval for Rehabilitation of Existing Theaters, Landmarks and Historic Buildings. The Boston Redevelopment Authority may approve a development plan only if: (a) the Applicant agrees to rehabilitate substantially an existing theater, Landmark, or Historic Building listed in Table B of this section; or (b) the Applicant and the fee simple owner (the "Owner") of an existing theater, Landmark or Historic Building enter an agreement, acceptable in form and content to the Boston Redevelopment Authority, which agreement shall be recorded in the appropriate public records of Suffolk County, Massachusetts, and shall provide that: (i) rehabilitation shall be performed or caused to be performed by the Owner in cooperation with the Applicant; (ii) the covenants and conditions of the agreement shall run with the land and shall be enforceable by the Applicant, the Owner, the Boston Landmarks Commission, and the Boston Redevelopment Authority. In the case of existing theaters, development plan approval shall also be subject to the provisions of Section 38-7(1). In the case of Landmarks, the rehabilitation must also be approved by the Boston Landmarks Commission in accordance with Chapter 772 of the Acts of 1975. The rehabilitation of the Historic Building or Landmark must receive a certificate of occupancy prior to the new building's receiving a certificate of occupancy.

TABLE B
MIDTOWN CULTURAL DISTRICT
EXISTING THEATERS, LANDMARKS, AND HISTORIC BUILDINGS
QUALIFYING FOR REHABILITATION

<u>Street Number</u>	<u>Street</u>	<u>Building</u>	<u>National Register District</u>
120-124	Boylston Street	Walker Building Addition	Piano Row
130-132	Boylston Street	Tucker Building	Piano Row
138-140	Boylston Street	S.S. White Dental Bldg.	Piano Row
154-156	Boylston Street	154-156 Boylston Street	Piano Row
48	Boylston Street	Young Men's Christian Union	Individual Listing
62	Boylston Street	Steinert Hall	Piano Row
11-13	Essex Street	11-13 Essex Street	Liberty Tree
15-17	Essex Street	15-17 Essex Street	Liberty Tree
19-21	Essex Street	19-21 Essex Street	Liberty Tree
25-31	Essex Street	Essex Hotel	Liberty Tree
6½	Hamilton Place	Orpheum Theater	N/A
150	Tremont Street	Lawrence Building	West Street
174-175	Tremont Street	Evans Building	Piano Row
177	Tremont Street	Harry Kraft Building	Piano Row
180-182	Tremont Street	Boston Edison Illumination Co.	Piano Row
216-218	Tremont Street	Union Warren Savings Bank	Piano Row
219-221	Tremont Street	Saxon (Majestic) Theater	N/A
244-250	Tremont Street	Wilbur Theater	N/A
515-521	Washington Street	The White Building	Washington Street Theater
525-527	Washington Street	Modern Theater (Dobson Bldg.)	Washington Street Theater
531-535	Washington Street	Adams House Restaurant	Washington Street Theater
539	Washington Street	Opera House	Washington Street Theater
543-547	Washington Street	Adams House Annex	Washington Street Theater
549-563	Washington Street	Paramount Theater	National Washington Street Theater
617-631	Washington Street	State Theater	Washington Street Theater
628-636	Washington Street	Liberty Tree Building	Liberty Tree
638-644	Washington Street	Brewster Hotel	Liberty Tree
658	Washington Street	Pilgrim Theater	
659-665	Washington Street	Publix Theater	N/A
681-683	Washington Street	Hayden Building	Individual Listing

3. **Qualification of Substantial Rehabilitation of a Theater.** Substantial rehabilitation work qualifying for development plan approval consists of: (a) major interior structural changes for the purpose of improving the theater's design and its viability for theater use; or (b) historic restoration of the interior of the theater. Substantial rehabilitation may include, without limitation, such work as expanding stage or wings, reraking the orchestra, increasing rehearsal, dressing room, or lobby space, or historic restoration. It may also include conversion to theater use of an original theater currently in other use. Substantial rehabilitation does not mean normal theater maintenance, painting, or improvements to mechanical systems alone.
4. **Qualification of Substantial Rehabilitation of Historic Building or Landmark.** Substantial rehabilitation of an Historic Building or Landmark qualifying for development plan approval consists of alterations or repairs made to a building or structure, costing in excess of fifty percent (50%) of the physical value of the structure or structures, in accordance with a plan submitted to the Boston Redevelopment Authority for its approval as part of the development plan approval. Physical value of a structure or structures shall be based on the assessed value as recorded on the assessment rolls of the City as of the January 1 preceding the date of the application for development plan approval.
5. **Development Plan Approval for Affordable Housing.** The Boston Redevelopment Authority may approve a development plan only if: (a) a minimum of 0.7 off-street parking space is provided for each dwelling unit; and (b) ten percent (10%) of the total number of dwelling units

proposed in the development plan are Affordable dwelling units.

6. Guidelines for Determining Amount of Additional Floor Area for Construction of On-Site Theater or Other Cultural Facility or for Substantial Theater, Historic Building, and Landmark Rehabilitation, or Affordable Housing. The value of the amount of floor area which the Board of Appeal, in its approval of exceptions pursuant to Sections 38-6(5) and 38-8(7), may grant for construction or rehabilitation of an on-site theater or other Cultural Facility is equal to four (4) times the average cost per square foot of providing new or rehabilitated theater or other Cultural Facility space; which cost shall be determined from time to time by the Boston Redevelopment Authority in conjunction with the Midtown Cultural District Trust. The value of the amount of floor area which the Board of Appeal, in its approval of exceptions pursuant to Sections 38-6(5) and 38-8(7), may grant for a qualifying Historic Building, or Landmark substantial rehabilitation is equal to four (4) times the average cost per square foot of providing rehabilitated Landmark or Historic Building Space; which cost shall be determined from time to time by the Boston Redevelopment Authority in conjunction with the Boston Landmarks Commission. Qualifying rehabilitation of theaters or other cultural facilities which are also Landmarks or Historic Buildings may receive eight (8) times the average cost per square feet of floor area for each square foot of substantial rehabilitation. The floor area of the cultural facility constructed or of the Landmark, Historic Building, or theater rehabilitated shall not be in-

cluded in the calculation of the gross floor area of any Proposed Project built in accordance with the approved development plan. The value of the amount of floor area which the Board of Appeal, in its approval of exceptions pursuant to Sections 38-6(5) and 38-8(7), may grant for provision of Affordable housing is equal to four (4) times the average cost per square foot of providing Affordable housing; which cost shall be determined from time to time by the Boston Redevelopment Authority in conjunction with the Neighborhood Housing Trust.

7. **Formulae for Amount of Additional Floor Area.** The formulae for the amount of additional floor area granted for construction of an on-site theater or other cultural facility, or for a qualifying theater, Historic Building, or Landmark substantial rehabilitation, are calculated on the basis of the minimum incentive necessary: (a) to preserve and create the facilities necessary to house and showcase the resident performing arts groups whose performances will reinvigorate the Midtown Cultural District as the center of Boston's cultural industry; (b) to maintain an appropriate mix of uses in the system of uses in the Midtown Cultural District; (c) to establish an intensive urban environment with a safe twenty-four hour activity pattern; and (d) to develop the Midtown Cultural District to an appropriate level, while providing means to counterbalance the negative impact which large-scale commercial development would otherwise have on the preservation of Midtown as an area characterized by historic buildings and cultural facilities.
8. **Approval by Related Agencies.** The Boston Redevelopment Authority shall approve a development plan only if: (a) in the case of construction of an on-site theater or other Cultural Facility, or

rehabilitation of an existing theater, the Mayor's Office of Arts and Humanities has approved the Applicant's plan for such construction as being in conformity with the Midtown Cultural District Plan; (b) in the case of rehabilitation of an Historic Building or Landmark, the Landmarks Commission has approved the Applicant's plan for such rehabilitation in accordance with the standards and criteria for rehabilitation set forth in Chapter 772 of the Acts of 1975; or (c) in the case of provision of housing, the Neighborhood Housing Trust has approved the Applicant's plan for provisions of such housing, in accordance with its rules and regulations.

SECTION 38-8. Planned Development Areas; General Design and Environmental Criteria. Each Proposed Project for which the commission approves a development plan shall be designed so that: (a) the massing of the Proposed Project is compatible with that of structures in the surrounding subdistrict; (b) the Proposed Project is architecturally compatible with the adjacent blocks in accordance with the design review provisions of Section 31-8; (c) the public benefits of the Proposed Project outweigh any burdens imposed; (d) when viewed from the streets bounding the block on which the Proposed Project is located, all ventilation, heating, or air conditioning ducts, tubes, equipment, or other related appurtenances are adequately screened from public view, to the extent feasible; and (e) the Proposed Project is in substantial conformity with the following provisions regarding environmental impact, with particular regard to impact on Chinatown, the Midtown Cultural District, Bay Village, the Boston Common, and the Public Garden.

1. Shadow Criteria. Each Proposed Project for which the commission approves a development plan shall be arranged and designed in a way to assure that it does not cast shadows for more than two hours from 8:00 a.m. through 2:30 p.m., on any day from February 21 through October 21, in any calendar year, on any portion of the Shadow Impact Areas, depicted in Appendix E to this article, that are not cast in shadow during such period on such days by structures existing as of the effective date of this article, or would not be cast in shadow during such period on such days by structures built in conformity with the provisions as to building dimension contained in Sections 38-5 and 38-10.
2. Wind. Any Proposed Project for which the commission approves a development plan shall be shaped, or other wind-baffling measures shall be adopted, so that such Proposed Project will not cause ground-level wind currents to exceed, more than ten percent (10%) of the time, year round, between 7:00 a.m. and 6:00 p.m., the comfort level of eleven (11) miles per hour equivalent wind speed in areas of substantial pedestrian use, and seven (7) miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, as provided above, or when such a Proposed Project may cause ambient wind speeds to exceed the comfort level, such Proposed Project shall be designed to reduce the ambient wind speeds to meet the requirements; provided, however, a Proposed Project in a PDA within the Midtown Cultural District may add to the amount of time that the comfort level is exceeded by the least practical amount if: (a) it can be shown that



such Proposed Project cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without violating the Skyline Plan described in paragraph nine of this section and without reasonably restricting the development potential of the building site in question; and (b) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception shall be granted and no Proposed Project in a PDA within the Midtown Cultural District shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of twenty-six (26) miles per hour for any single hour of the year.

For the purposes of this section, "equivalent wind speed" means an hourly wind speed adjusted to incorporate the effects of gustiness or turbulence on pedestrians. Procedures and methodologies for implementing this section are as specified by the Boston Redevelopment Authority.

3. **Transportation Access.** Any Proposed Project for which the commission approves a development plan shall be permitted to exceed the "as-of-right" floor area only if its location and access with respect to the vehicular circulation system indicate its suitability for such increased floor area, as shown in the Transportation Access Plan required pursuant to Section 31-7 of this code.

4. Skyline Plan. Any Proposed Project for which the commission approves a development plan shall be consistent in height and form with the Skyline Plan in the Midtown Cultural District Plan.
5. Landmarks and Historic Buildings. Any Proposed Project for which the commission approves a development plan shall be designed and arranged in such a way as to limit the reduction of light and air surrounding Landmarks and Historic Buildings, and to minimize the shadow impact on their facades.
6. Boston Civic Design Commission Review. Any Proposed Project for which the commission approves a development plan shall be subject to review by the Boston Civic Design Commission, in accordance with the provisions of Article 28.
7. Any Proposed Project for which the commission approves a development plan shall be subject to all provisions of the code applicable to the subdistrict in which the Proposed Project is located unless an exception to such provisions has been granted pursuant to Article 6A. The Board of Appeal shall permit an exception for setbacks, building height, or FAR only if it finds, in addition to all other conditions required under Section 6A-3, that such an exception is in substantial accord with the provisions governing building height and FAR set forth in Section 38-6, or the setback regulations provided for in Section 38-10, in light of all applicable provisions of this section and of Article 31 when taken as a whole.

SECTION 38-9. Midtown Cultural District Use Regulations. Any Proposed Project within the Midtown Cultural District is governed by the use regulations established in this section.

1. Ground Level and Cultural Uses. Within any Proposed Project, uses with street frontage located on the ground level or entered by stairs from a sidewalk entry, except for lobby entrances, are limited to Ground Level Uses and Cultural Uses, as listed in Appendix B to this article. All other uses with street frontage which are allowed by this section are conditional uses when located on the ground level or entered by stairs from a sidewalk entry.
2. Housing Priority Areas. The areas depicted in Appendix C to this article are Housing Priority Areas. Notwithstanding any other provision of this article to the contrary, within these areas, a minimum of three (3) feet of gross floor area shall be devoted to Residential Uses for each foot of gross floor area devoted to non-Residential Uses of any Proposed Project of more than ten thousand (10,000) square feet for exterior construction or exterior alteration or change of use of a building of up to one hundred fifty-five (155) feet in height; provided that, the Housing Priority Area requirement does not apply to the ground floor level or to any space devoted to Cultural Uses, uses accessory to Cultural Uses, or space devoted to community services. An Applicant for any Proposed Project subject of the provisions of this paragraph may satisfy these requirements by constructing or rehabilitating space for Residential Uses within the same Housing Priority Area, in an amount three times the gross square footage of space devoted to Non-Residential Uses in the Proposed Project.

3. **Neighborhood Business Opportunities.** An Applicant for any Proposed Project with fifty thousand (50,000) or more square feet available for lease shall take affirmative measures to afford Neighborhood Business Establishments from the Chinatown Special Study Area, as described in Article 27D, the opportunity to lease space within the Proposed Project. An Applicant which: (a) provides evidence of having given reasonable notice of the opportunity to lease space to business establishments from the Chinatown neighborhood; and (b) makes at least ten percent (10%) of the gross floor area of the Proposed Project, and at least twenty-five percent (25%) of the gross floor area of the Proposed Project's ground level floor area, available for lease by Neighborhood Business Establishments shall be deemed to be in compliance with these provisions. The Applicant shall use best efforts to market such space to Neighborhood Business Establishments for a period of not less than ten (10) years from the date of issuance of the first building permit for the Proposed Project.

4. **Inclusion of Day Care/Family Care Facilities.** Within any Proposed Project which equals or exceeds a gross floor area of fifty thousand (50,000) square feet, and is devoted primarily to commercial office use, at least two percent (2%) of the Proposed Project's gross floor area must be devoted to day care or family care facilities. An Applicant for a Proposed Project subject to the provisions of this paragraph may fulfill its obligations under this paragraph by (i) providing such facilities on-site; (ii) providing such facilities in the vicinity of the Proposed Project; (iii) providing such facilities off-site; or (iv) providing direct

support to an existing facility, in accordance with the Boston Redevelopment Authority's regulations regarding family care and day care facilities, adopted pursuant to this article.

5. Allowed Uses: Except as otherwise provided in this Section, the following uses are allowed uses within the Midtown Cultural District:
- a. Residential Uses, limited to multi-family dwelling, artists' live/work space, apartment hotel, lodging or boarding house, and any dwelling converted for more families, where structures after conversion will conform to this code. Residential Uses include any Affordable dwelling units, including but not limited to Affordable dwelling units which are rental units, condominiums, or limited equity share cooperatives.
 - b. Restaurant and Entertainment Uses, limited to the service or sale of food or drink for on-premises consumption; concert hall; theater, commercial and non-profit (including motion picture or video theater, but not drive-in theater); art galleries, non-profit or for-profit.
 - c. Office Uses, limited to offices of cultural groups, professional persons, or clinics; real estate, insurance, or other agency or government office; office building; post office; bank (other than drive-in bank or similar establishment); dance, theater, or music rehearsal studio; radio or television studio.
 - d. Hotel or motel.

- e. Group Care Residence, limited, as defined by clause 22B of Section 2-1, provided that: (a) no limited group care residence is within 1,000 feet of another limited group care residence; and (b) a cooperation agreement exists relating to the location and operation of such facilities between the Boston Redevelopment Authority, the City of Boston, and the agency of the Commonwealth operating, licensing, or regulating such facilities.
- f. Day care center, family care center, nursery school, kindergarten, or elementary or secondary school.
- g. Recreational and Community Uses, limited to private grounds for games and sports not conducted for profit; other social, recreational, or sports center conducted for profit; private club (including quarters of fraternal organizations) operated for members only; adult education center or community center building; settlement house; the maintenance and operation of any amusement game machine in a private club, dormitory, fraternity, or sorority house, or similar non-commercial establishment, or in any commercial establishment.
- h. Public Service Uses, limited to public service pumping station, sub-station, or automatic telephone exchange, subject to St. 1956, c. 665, s.2.
- i. Wholesale Uses, limited to office or display or sales space of a wholesale, jobbing, or distributing house; provided that not more

than twenty-five (25%) percent of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.

- j. Service Uses, provided that in laundries and cleaning establishments, only non-flammable solvents are used for cleaning; animal hospital or clinic.
- k. Retail Uses, limited to store primarily serving the local retail business needs of the neighborhood; department store, furniture store, general merchandise mart or other store servicing the general retail business needs of a major part of the city, including accessory storage.
- l. Adult Entertainment Uses, as defined in Article 39. Adult Entertainment Uses shall be allowed only within the Adult Entertainment District, established pursuant to Section 3-1A.
- m. Institutional Uses, limited to place of worship, monastery, convent, or parish house; elderly care facility; non-profit library or museum, not accessory to another institutional use; or clinic or professional offices accessory to a hospital or sanitarium whether or not on the same lot, provided that such use will occupy interior space being used by the same institution for another institutional use at the time such change is proposed.
- n. Accessory Uses, subject to the limitations and restrictions of Article 10, limited to: (a) a garage or parking space for occupants, employees, students, and visitors, provided that such use is

accessory to a residential use, a hotel or motel, a group care residence, or a dormitory, fraternity, or sorority house; (b) a swimming pool or tennis court; (c) the storage of flammable liquids and gases incidental to a lawful use; (d) the manufacture, assembly, or packaging of products sold on the lot; (e) the maintenance and operation of not more than four amusement game machines accessory to eating and drinking establishments; (f) any use ancillary to, and ordinarily incident to, a lawful main use, provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is accessory.

6. **Conditional Uses.** The following uses are conditional uses within the Midtown Cultural District:

- a. **Residential Uses**, limited to temporary dwelling structure, temporary housing shelter, orphanage, and any dwelling converted for more families, provided that, after conversion, any nonconformity as to floor area ratio is no greater than prior to conversion.
- b. **Group Care Residence**, unless otherwise allowed pursuant to paragraph 5(c) of this section.
- c. **Light Manufacturing Uses**; kennel or pound.
- d. **Parking lot or parking garage.**
- e. **Wholesale uses**, limited to accessory storage (other than of flammable liquids, gases, and explosives) in roofed structures or office

or display or sales space of a wholesale, jobbing, or distributing house where more than twenty-five (25%) percent of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.

- f. Fast Food Restaurant Uses, meaning sale over the counter, not wholly incidental to a use listed under paragraph 5(b) or 5(k) of this section, of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out.
- g. Rental motor vehicle and trailer agency accessory to a hotel or motel, provided that no rental vehicles or trailers are parked on the street and that exterior lighting is arranged to shine downward and away from residences.
- h. The demolition or change of use of any theater listed in Table E in Section 38-11, unless excepted pursuant to Section 38-11(1).
- i. Transportation Uses, limited to bus terminal, bus station, or railroad passenger station, airline shuttle service.
- j. Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and for which it would be a lawful accessory use if it were on the same lot; provided that, any such use shall be subject to the same restric-



tions, conditions, limitations, provisos, and safeguards as the use to which it is ancillary.

- k. Institutional Uses, limited to college or university granting degrees by authority of the Commonwealth; fraternity or sorority house or dormitory; trade, professional, or other school; penal or correctional institution; detention home; machine shop or other noisy activity accessory to a school, college, or university, adequately sound-insulated to protect the neighborhood from unnecessary noise; hospital, sanitarium, elderly care facility, orphanage, or similar institution not for correctional purposes, whether or not providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; clinic or professional offices accessory to a hospital or sanitarium whether or not on the same lot, providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; library or museum not conducted for profit and accessory to another institutional use not allowed pursuant to paragraph 5(m) of this section; or research laboratory not accessory to another institutional use.
- l. Accessory Uses, limited to: (a) a garage or parking space for occupants, employees, customers, students, and visitors, such use not accessory to a residential use, a hotel or motel, a group care residence, or a dormitory, fraternity, or sorority house; (b) the keeping of animals, other than households pets, provided that every enclosure is sufficient to prevent a nuisance to any adjacent residences or eleemosynary institutions; (c) the keeping of laboratory animals incidental to a conditional institutional use, provided

that all resulting noise, dust, fumes, gases, odors, and refuse matter are effectively confined to the lot or so disposed of as not to be a nuisance or hazard to health or safety; (d) in educational institutions with more than four hundred (400) full-time students, and in hospitals with more than fifty (50) beds, incidental uses and services ordinarily found in connection therewith and primarily for the patients and staff or students and faculty, when conducted wholly within a building and entered from within the building where there is but one building on the lot or from an entrance not directly facing a street or lot line where there is more than one building on a lot, unless accessory to a hospital or sanitarium or clinic which is an allowed use; and (e) the keeping of laboratory animals incidental to an allowed institutional use, provided that all resulting noise, dust, fumes, gases, odors, and refuse are effectively confined to the lot or so disposed of as not to be nuisance or hazard to health or safety.

SECTION 38-10. Specific Design Requirements. All Proposed Projects within the Midtown Cultural District shall comply with the specific design requirements established in this section.

1. Street Wall Continuity. The Street Wall of any Proposed Project shall be built to:
 - (a) be coextensive with at least eighty percent (80%) of the "Existing Building Alignment" of the block on which the Proposed Project fronts, established pursuant to Section 18-2 of this code; or

- (b) if there is no Existing Building Alignment of such block, then, coextensive with at least eighty percent (80%) of the Existing Building Alignment of either block adjacent to the block on which the Proposed Project is located.

Above the floor structure for the second floor of a Proposed Project, or fourteen (14) feet, whichever is less, the Street Wall may have recesses not greater than two (2) feet in depth; provided that, the aggregate vertical surface area of such recesses shall not exceed eighty percent (80%) of the Street Wall surface area above the Display Window Area street wall, as defined in paragraph four of this section.

2. Street Wall Height. The "Street Wall Height" for a Proposed Project to exceed five stories is as follows:

- (a) if the Proposed Project occupies an entire block frontage on any street within the Midtown Cultural District, no more than ninety (90) feet; or
- (b) if the Proposed Project is adjacent to an existing building on one side with a building height less than ninety (90) feet, any height between the height of such existing building and ninety (90) feet, provided, however, not less than sixty-five (65) feet; or
- (c) if the Proposed Project is adjacent to an existing building on one side with a building height greater than ninety (90) feet, no more than ninety (90) feet; or

(d) if the Proposed Project is between two (2) existing buildings, any height between the building heights of such existing buildings; provided, however, not less than sixty-five (65) feet or more than ninety (90) feet.

3. Special Provisions for Corner Lots. For a corner lot with frontage on streets with different maximum Street Wall Heights, the maximum Street Wall Height on the street with a lower Street Wall Height may be increased above that determined pursuant to paragraph two, up to the Street Wall Height allowed on the street with a higher Street Wall Height. This provision applies only up to one hundred (100) feet from the corner along the street line of the street with a lower Street Wall Height.

4. Display Window Area Regulations. For the purposes of this section, the term "Display Window Area" means that volumetric area of any Proposed Project of fifty thousand (50,000) or more square feet, that is within four (4) feet of the street line of the Proposed Project and between a height of two (2) feet above grade and the height of the floor structure of the second floor of the Proposed Project, or fourteen (14) feet, whichever is less, and excludes any area of street wall serving as access to off-street loading berths or accessory off-street parking.

(a) Display Window Area Street Wall Transparency. At least eighty percent (80%) of the Display Window Area street wall shall be glazed and transparent, and Article 11 of this code applies to any painting or signs on the Display Window Area street wall, and to signs in the Display Window Area.

- (b) Display Window Area Street Wall Continuity. The Display Window Area street wall shall be sufficiently coextensive with the Street Wall line, established pursuant to paragraph one of this section, to spatially reinforce such Street Wall line. For the purposes of this subparagraph, the Display Window Area street wall may have:
- (i) recesses not to exceed ten (10) feet in depth, such recesses to be limited in their aggregate to not more than thirty percent (30%) of the area of the Display Window Area street wall; and
 - (ii) recesses not to exceed two (2) feet in depth, which recesses shall be limited, in their aggregate, to not more than fifty percent (50%) of the area of the Display Window Area street wall. The restrictions on recesses in this subparagraph are not applicable to continuous arcades.
- (c) Display Window Area Usage. To a depth of at least two (2) feet behind the Display Window Area street wall there shall be: (a) an area for the display of goods and services available for purchase on the premises; or (b) an area for exhibits and announcements; provided, however, this requirement is not applicable to:
- (1) lobby or foyer space for cultural activities; or (2) restaurants.

5. Setback Requirements.

- (a) Setback at Street Wall Height. Above the Street Wall Height determined pursuant to paragraphs two and three of this section, every portion of a Proposed Project shall be set back at least the amount of the Sky Plane Setbacks established in subparagraph (a) of this paragraph. The amount of the Sky Plane Setback for each

wall of a building depends on whether the particular wall faces on a Major or a Minor Street, as identified below in Table C. For Proposed Projects located with Major and/or Minor streets on all sides, the option not to set back up to one hundred fifty-five (155) feet is allowed on one Minor Street.

TABLE C

Major Streets

Arlington Street
Avenue deLafayette
Beach Street
Boylston Street
Bromfield Street
Charles Street
Columbus Avenue
Essex Street

Franklin Street
Stuart Street
Summer Street
Temple Place
Tremont Street
Washington Street
West Street

Minor Streets

Avery Street
Bosworth Street
Boylston Place
Broadway
Bromfield Street
Chauncy Street
Church Street
Columbia Street
Hadassah Way
Hamilton Place
Harrison Street
Harvard Place

Kingston Street
LaGrange Street
Lincoln Street
Mason Street
Province Court
Province Street
School Street
South Street
Tamworth Street
West Street
Winter Street

- (b) Sky Plane Setbacks. Other than decorative cornices and other surface ornamentation, no portion of a Proposed Project (including, but not limited to, mechanical equipment) above the Required Street Wall Height of such Proposed Project shall violate the "Sky Plane Setbacks" established in Table D for building heights of one hundred fifty-five (155) feet, two hundred thirty-five (235) feet, and three hundred ten (310) feet.



TABLE D
SKY PLANE SETBACKS
Depth of Setback

<u>Building Height</u>	<u>Major Streets</u>	<u>Minor Streets</u>
up to 155'	35	25
155' - 235'	45	35
235' - 310'	50	40

If, after the setback required at the Street Wall Height pursuant to subparagraph (a) of this paragraph, the gross floor area for any floor of the Proposed Project, assuming one hundred percent (100%) utilization of the remaining area of the lot after any such setback exclusive of the setback area, is nine thousand (9,000) square feet or less as a consequence of the Street Wall Height setback or Sky Plane setback provision, then the Proposed Project may penetrate the Sky Plane without further setbacks.

- (c) **Maximum Floor Plates.** Notwithstanding any provision in this article to the contrary, above the Street Wall Height, the maximum gross floor area of any floor of a Proposed Project shall not exceed twenty-two thousand five hundred (22,500) square feet.
- (d) **Depth of Setback Requirements for Corner Lots.** The setback provisions apply only to portions of buildings above the maximum Street Wall Height, so that the required setbacks for a portion of a Proposed Project subject to the corner lot provisions of paragraph three of this section are those established for the applicable maximum Street Wall Height established pursuant to paragraph three of this section.

- (e) The principal facade of a building may violate the setback requirements up to the one hundred fifty-five (155) foot level, up to a maximum of 35 feet horizontal dimension or one bay or 30% of total horizontal length of the principal facade, whichever is greater.
- (f) Corner conditions for corner lot buildings. The corner condition may be either a continuous curve that follows the curve of the street or a notched setback at the intersection of the two facade planes. The notch may be a curve, a projection (bay) or a recessed element. The maximum horizontal dimension of the notch cannot exceed one bay or 35 feet from the intersection of the two planes, whichever is less. The form and character of the notch or curve will be determined by the Article 31 design review process.

SECTION 38-11. Restrictions on Demolition and Change of Use of Theaters.

The Commissioner of the Inspectional Services Department shall not issue a demolition or change of use permit for any theater listed in Table E of this section, except in accordance with the provisions of this section.

1. Demolition of Unsafe Theaters. The Commissioner of the Inspectional Services Department may issue a demolition permit where the theater or building is unsafe and demolition is required pursuant to the provisions of the State Building Code.
2. Authorized Demolition and Change of Use of Theaters. Excepting the provisions of paragraph one of this section, the Commissioner of the Inspectional Services Department shall issue a demolition or change of use permit only if the Board of Appeal finds, after taking into con-

sideration the recommendations, if any, of the Midtown Cultural District Trust, and in addition to all other conditions required under

Section 6-3, Section 6-3A, and Section 6-4, where applicable, that:

(a) demolition or change of use of the theater structure will not unduly diminish the character of the Midtown Cultural District as a cultural, entertainment, and theatrical showcase, taking into consideration:

(i) current physical characteristics of the theater that affect its suitability for use as a theater, including but not limited to seating capacity, interior configuration, and location; (ii) history of its use as a theater; (iii) the likelihood of its future use for theater production; and (iv) the Applicant's plans for replacement of the theater structure with performing arts facilities supportive of the objectives and specifications of the Midtown Cultural Plan; and (b) any Proposed Project on the lot containing a portion or all of the former site of the theater shall reserve for Cultural Uses a volume in an amount of at least twenty-five percent (25%), but not required to exceed one hundred percent (100%), of the volume of the former theater, including auditorium, stage house, lobby, and other theater support facilities; or (c) notwithstanding the provisions of subsections (a) and (b) of this paragraph, issuance of the demolition permit is in furtherance of a maintenance or rehabilitation program of the theater for theater uses. In the case of a theater in a building or an interior designated as a Landmark, such demolition must also be authorized by the Boston Landmarks Commission, in accordance with Chapter 772 of the Acts of 1975, as amended.

TABLE E
MIDTOWN CULTURAL DISTRICT
THEATERS COVERED BY DEMOLITION REGULATIONS

<u>Theater</u>	<u>Address</u>
Charles Playhouse	76-78 Warrenton Street
Shubert Theater	263-265 Tremont Street
Wang Center	252-272 Tremont Street
Wilbur Theater	244-250 Tremont Street
Colonial Theater	96-106 Boylston Street
Opera House	539 Washington Street
Tremont Temple	76-88 Tremont Street
Orpheum Theater	6½ Hamilton Place
Steinert Hall	162 Boylston Street
Saxon (Majestic) Theater	219-221 Tremont Street
Publix Theater	659-665 Washington Street
State Theater	617-631 Washington Street
Paramount Theater	549-563 Washington Street
Modern Theater	523-527 Washington Street
Essex Theater	600 Washington Street
YMCU Theater	48 Boylston Street

SECTION 38-12. Off-Street Parking Not Required. Within the Midtown Cultural District, off-street parking facilities are not required in any Proposed Project, except as provided in Section 38-7(7).

SECTION 38-13. Adult Entertainment District. Within the Adult Entertainment District, Adult Entertainment Uses, established in Section 38-9.5(m), are allowed, and the prohibition of moving or flashing signs in Section 11-2 does not apply.

SECTION 38-14. Regulations. The Boston Redevelopment Authority may promulgate regulations to administer this article; provided, such regulations shall become effective only upon adoption by the commission.

SECTION 38-15. Severability. The provisions of this article are severable, and if any such provision or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this article.

APPENDIX A

Midtown Cultural District

PROPOSED BUILDING HEIGHTS AND FARs

Key:

- 125'-155' Building Height/FAR 8-10*
- 65' Building Height/FAR 4 Bay Village Edge
- Boston Common/Public Garden Protection Zone

Within one hundred feet of Tremont Street and Boylston Street, the maximum building heights for new development will be as indicated, and the floor area ratio (FAR) will be 8-10

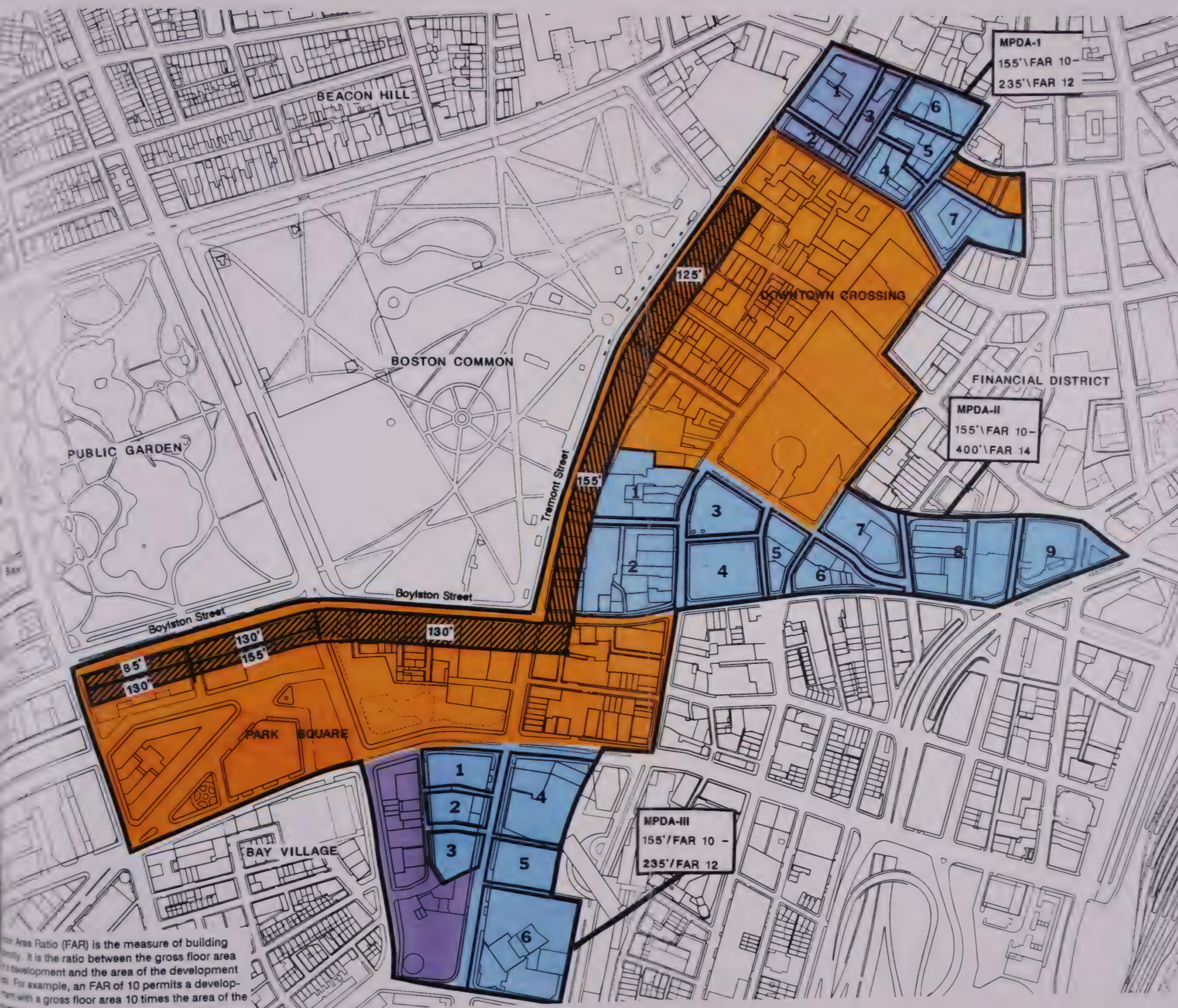
Planned Development Areas

Development within the Planned Development Areas can proceed only in accord with the master plan for the area, and only after a specific development plan has been approved by the Boston Redevelopment Authority and the Zoning Commission. The plan prescribes the uses, massing, height, location, and appearance of the buildings. The sizes of the buildings in the Planned Development Areas are set out in the table below. The Supreme Judicial Court of Massachusetts, in the case *Manning vs. Boston Redevelopment Authority*, confirmed that "the PDA process [is] intended to establish a more flexible zoning law and encourage large-scale private development while insuring good design by improving planning and design controls."

MIDTOWN CULTURAL DISTRICT MASTER PLAN FOR
PLANNED DEVELOPMENT AREAS
MAXIMUM BUILDING HEIGHT AND FAR*

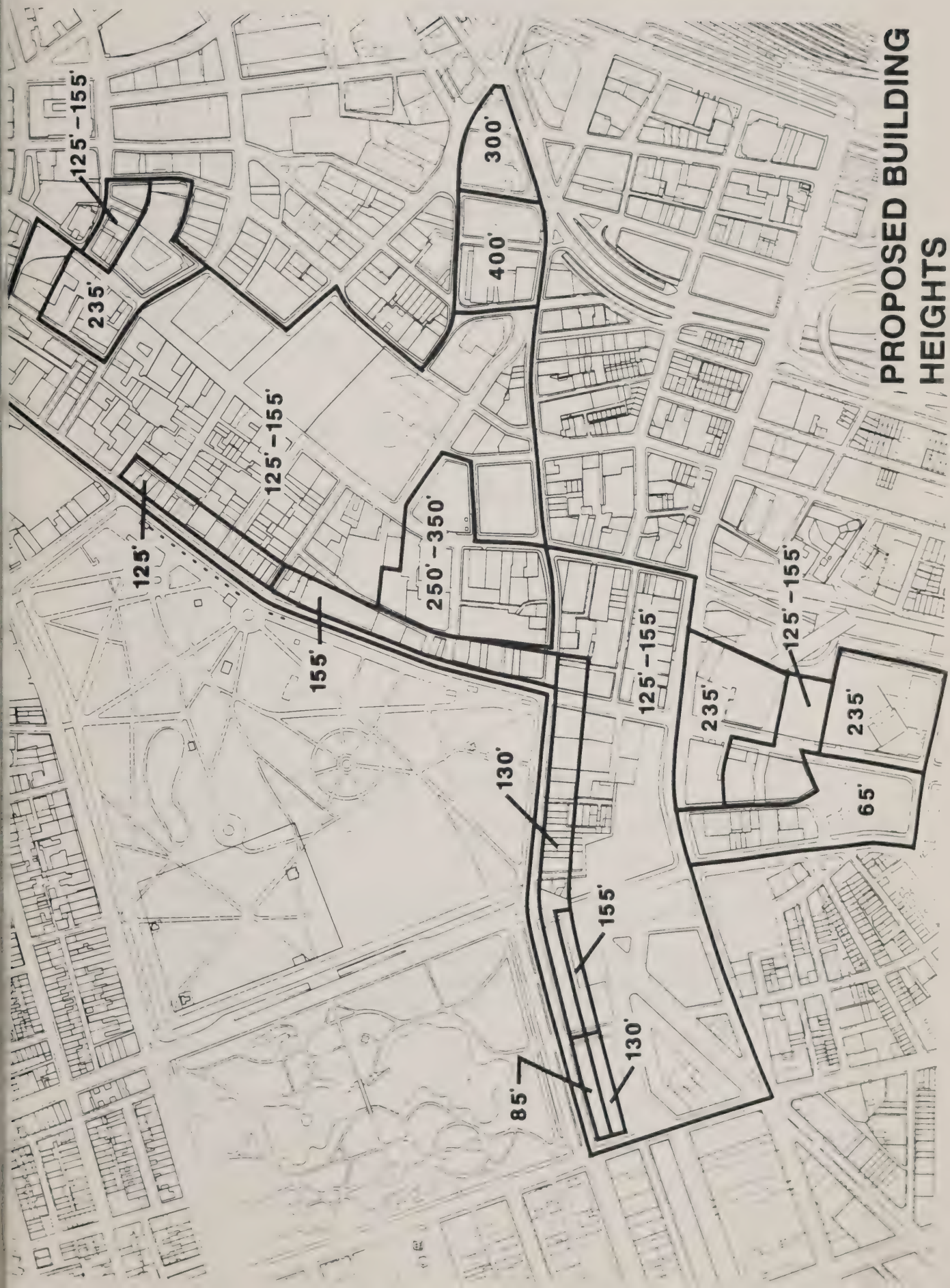
	PDA Height/ FAR Standards
MPDA-I	
Blocks 1, 2, 3, & 6	155'/10
Blocks 4, 5, & 7	155'-235'/10-12
MPDA-II	
Blocks 1, 2, & 3	250'-350'/12-14
Blocks 4, 5, 6, & 7	155'/10
Blocks 8	400'/14
Block 9	300'/14
MPDA-III	
Blocks 1, 4, & 6	155'-235'/10-12
Blocks 2, 3, & 5	155'/10

* Notwithstanding the foregoing provisions, the maximum building height and FAR permitted within any Housing Priority Area is two hundred thirty-five (235) feet and an FAR of 12.



Area Ratio (FAR) is the measure of building density. It is the ratio between the gross floor area of development and the area of the development site. For example, an FAR of 10 permits a development with a gross floor area 10 times the area of the development site.

PROPOSED BUILDING HEIGHTS



APPENDIX B

1. Ground Level Uses. The following uses are a Ground Level Uses, and are allowed uses within the Midtown Cultural District. This list is intended to be illustrative of pedestrian-oriented uses and not exclusive.

Antique stores
Appliances, repair shops
Appliances, sales
Artists' supply and music stores
Athletic goods stores
Bakeries or pastry shops
Bank machines, limited to two
Barber shops
Beauty parlors
Bicycle stores, rental or repair
Book stores or card stores*
Cafes
Candy stores
Carpet, rugs, linoleum, or other floor covering stores
Churches
Cigar stores
Clock or watch stores, or repair shops
Clothing retail establishments
Clothing stores, (men's, women's, children's apparel)
Clubs, non-commercial
Coffee shops
Coin stores
Community centers
Dance halls, public
Day Care Centers
Delicatessen stores
Diners
Dressmaking shops, custom
Drug stores
Dry cleaning establishments or laundromats
Dry goods or fabric stores
Eating or drinking places, in accordance with the provisions of Use Item Number 38*
Fabric or yarn store
Fire Stations
Fishing tackle or equipment stores, or rental establishments
Florist shops
Food stores, including supermarkets, produce and grocery stores, markets, health foods, delicatessens, prepared food/special food, spices and herbs, coffees, teas, meat, fish, poultry, and cheese stores
Furniture stores
Furrier shops, custom
Gift shops

APPENDIX B (cont'd)

Hair products for headwear
Hardware stores
Historical exhibits
Hobby shops
Housewares
Household appliance repair shops
Ice cream stores
Interior decorating establishments
Jewelry shops
Kitchenware
Lamp shops
Leather goods or luggage stores
Libraries
Locksmith shops
Luggage stores
Millinery shops
Newstands, enclosed
Office or business machine stores, sales or rental
Offices (only lobby space is allowed at grade on streets bounding blocks)
Optician or optometrist establishments
Orthopedic stores
Paint stores
Parish houses
Parks, public or private
Party shops
Pet shops
Phonographic repair shops
Photographic developing or printing establishments
Photographic equipment stores
Photographic studios
Photographic supply stores
Photostating establishments
Picture framing stores
Police stations
Post offices
Printing establishments
Radio appliance shop, repair or sales
Record stores
Recreational centers (non-commercial)
Residences (only lobby space is permitted at grade or streets bounding blocks)
Schools
Sewing machine stores, selling household machines
Shoe repair shops
Shoe stores
Sign painting shops
Skating rinks, outdoor ice
Sporting goods stores
Sports shop
Stamp stores
Stationery stores

APPENDIX B (cont'd)

Tailor shops, custom
Telegraph offices
Television repair shops
Tobacco stores
Tour operator
Toy stores
Typewriter stores
Typewriter or other small business machine repair stores
Variety or convenience stores
Video or motion picture store, sale or rentals
Wallpaper stores

2. Cultural Uses. The following uses shall be Cultural Uses, and shall be allowed uses within the Midtown Cultural District.

Art galleries, commercial and non-profit
Art metal craft shops
Art needle work shops
Auditoriums
Costume rental establishments
Motion picture or video production studio
Museums
Music stores
Musical instruments, repair
Philanthropic and non-profit institutions which provide direct support to the arts
Public Art, display space
Studios, music, dancing, visual arts, or theatrical
Theater
Ticket sales

*Subject to the provisions of Section 38-10 and Section 38-13.



APPENDIX D
Midtown Cultural District
Landmarks and Historic Buildings

<u>STREET NUMBER</u>	<u>STREET</u>	<u>BUILDING</u>
89-103	Bedford Street	Bedford Building
12	Bosworth Street	Bible Society
13-14	Bosworth Street	Sargent
5	Bosworth Street	Parker House Annex
3	Boylston Place	Ancient Landmark Building
162	Boylston Street	Steinert Building
4	Boylston Place	Tavern Club
5-6	Boylston Place	Tavern Club Annex
2-22	Boylston Street	Boylston Building/China Trade Center*
25-39	Boylston Street	Boston Edison III.
48	Boylston Street	Young Men's Christian Union*
62	Boylston Street	Touraine Building
74-94	Boylston Street	Little Building
96-106	Boylston Street	Colonial Theater
114-116	Boylston Street	Walker Building
120-124	Boylston Street	Walker Building Annex
130-132	Boylston Street	Tucker
138-140	Boylston Street	S.S. White Dental
32-38	Bromfield Street	Wesleyan Association Building
12-16	Bromfield Street	Washington
22-26	Bromfield Street	Same*
28-30	Bromfield Street	Same*
40-44	Bromfield Street	Publicity
41-43	Bromfield Street	Mass. Bible Society
45-51	Bromfield Street	Sargent
105-111	Chauncy Street	Frost
90-100	Chauncy Street	Wentworth
25-32	Essex Street	Essex Hotel
62-72	Essex Street	Same
11-13	Essex Street	11-13 Essex Street
15-17	Essex Street	15-17 Essex Street
6.5	Hamilton Place	Orpheum/Music Hall
7-9	Hamilton Place	7-9 Hamilton Place
19-25	Harrison Avenue	Same
10	Haymarket Place	Same
88-100	Kingston Street	Same
12-18	LaGrange Street	Same
15-17	LaGrange Street	Same
19-21	LaGrange Street	Same
15-17	Milk Street	Boston Post Building
19-23	Milk Street	Goddard
2	Park Square	2 Park Square
32-54	Province Street	Hutchinson
24-32	School Street	24-32 School Street
11-25	Stuart Street	Dill Building
31-39	Stuart Street	Jacob Worth Building*
71-77	Stuart Street	Same

<u>STREET NUMBER</u>	<u>STREET</u>	<u>BUILDING</u>
21-23	Temple Place	Same
25-27	Temple Place	Same
45-47	Temple Place	Same
49-51	Temple Place	Same
52-56	Temple Place	Same
29-35	Temple Place	29-35 Temple Place
32-36	Temple Place	32-36 Temple Place
38-43	Temple Place	Gardner Building
48-50	Temple Place	48-50 Temple Place
100-102	Tremont Street	Paddock
127	Tremont Street	Same
128	Tremont Street	Same
129	Tremont Street	Same
130	Tremont Street	Same
131-134	Tremont Street	Same
136	Tremont Street	St. Paul's Cathedral
138-140	Tremont Street	138-140 Temple Street
144-145	Tremont Street	Same
147	Tremont Street	Shreve
150	Tremont Street	Lawrence Building
174-175	Tremont Street	Evans Building
178-179	Tremont Street	Oliver Ditson Building
180-182	Tremont Street	Same
183-186	Tremont Street	Masonic Temple
219-221	Tremont Street	Saxon/Majestic Theater*
220-222	Tremont Street	Same
226	Tremont Street	Same
244-250	Tremont Street	Wilbur Theater*
252-272	Tremont Street	Wang Center/Metropolitan Center
253-261	Tremont Street	Same
263-265	Tremont Street	Shubert Theater
76-78	Warrenton Street	Charles Playhouse
90-92	Warrenton Street	Hotel Hampden
94-102	Warrenton Street	Nick's
315-343	Warrenton Street	Province
322-328	Washington Street	Boston Transcript Building
332-334	Washington Street	Same
365	Washington Street	Same
381-389	Washington Street	Jeweler's Building
384-426	Washington Street	Filene's
391-405	Washington Street	Same
407-411	Washington Street	I.J. Fox
413-415	Washington Street	Orpheum Entry
417-425	Washington Street	Gilchrist's
427-429	Washington Street	Same
431-439	Washington Street	431-439 Washington Street
449-451	Washington Street	Oliver Ditson
453-463	Washington Street	Dexter
485-499	Washington Street	485-499 Washington Street
501-509	Washington Street	Armory

<u>STREET NUMBER</u>	<u>STREET</u>	<u>BUILDING</u>
511-513	Washington Street	Bigelow-Kennard Building
515-521	Washington Street	White
523-527	Washington Street	Modern Theater (Dobson Bldg.)
531-535	Washington Street	Adams House
539	Washington Street	Opera House / Savoy Theatre
543-547	Washington Street	Adams House Annex
590-600	Washington Street	600 Washington Street
681-683	Washington Street	Hayden Building*
13-15	West Street	13-15 West Street
16-24	West Street	Schrafft's/Fabyan
25-31	West Street	Same
26-32	West Street	Same
34-50	West Street	Same
43-45	West Street	Same
1-2	Winter Place	Same
3-4	Winter Place	Locke-Ober's
12-14	Winter Street	Same
13-15	Winter Street	Same
16-18	Winter Street	Same
17-19	Winter Street	Conrad/Chandler
20-24	Winter Street	Stowell's
31-33	Winter Street	Same
35-41	Winter Street	Reynold's
38-40	Winter Street	Same
43-45	Winter Street	Homer
44-46	Winter Street	Same
9-11	Winter Street	Same

* Building designated a Landmark by Boston Landmarks Commission.



SHADOW IMPACT AREAS

The primary environmental constraint for new development is to minimize the impact of new shadow on the parks, public plazas, major pedestrian streets and significant historic structures in the Midtown area. The areas that potentially would be affected by any new Midtown District shadows and which should be protected from further shadow impacts are: (1) a portion of the Boston Common during the morning hours, and (2) Washington Street during the afternoon hours.

APPENDIX F

Definitions

For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Adjusted Income" is defined as it is in 24 CFR §813.102, as amended, or as set forth in regulations adopted in accordance with Section 38-15.
2. "Affordable" means, in the case of an owner-occupied dwelling unit, requiring the expenditure by a Low-Income or Moderate-Income Household for mortgage and insurance payments, real estate taxes, and condominium fees of not more than thirty percent (30%) of its Adjusted Income to occupy the unit, and, in the case of a renter-occupied dwelling unit, requiring the expenditure by a Low-Income or Moderate-Income Household for rent payments of not more than thirty percent (30%) of its Adjusted Income to occupy the unit.
3. "Annual Income" is defined as it is in 24 CFR §813.106, as amended, or as set forth in regulations adopted in accordance with Section 38-15.
4. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this article, as set forth in Section 38-4, or the authorized agent of any such person or entity.
5. "Chinatown" means the area defined in Article 27D as the Chinatown Special Study Area.

6. "Cultural Facility" means a structure or portion thereof devoted primarily to presentations of live performances of dance, drama, music, and related performing arts, and visual arts exhibitions.
7. "Cultural Uses" means the uses listed in paragraph 2 of Appendix B to this article.
8. "Ground Level Uses" means the uses listed in paragraph 1 of Appendix B to this article.
9. "Historic Building" means any building or structure listed in Appendix D to this article, which is not designated a Landmark pursuant to Chapter 772 of the Acts of 1975, as amended.
10. "Landmark" means any building or structure designated a landmark pursuant to Chapter 772 of the Acts of 1975, as amended.
11. "Low-Income Household" means any household whose Annual Income does not exceed 50% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.
12. "Median Gross Income" is defined as it is by the United States Department of Housing and Urban Development, pursuant to 24 CFR §813.102, as amended, or as set forth in regulations adopted in accordance with Section 38-15.

13. "Midtown Cultural District Plan" means the comprehensive plan, adopted by the Boston Redevelopment Authority pursuant to Chapter 652 of the Acts of 1960, Section 3 of Chapter of the Ordinances of 1952, and Section 27D-18 of this code, which sets forth the planning policies, development controls, and design guidelines for the Midtown Cultural District.
14. "Midtown Cultural District" means the area defined in Section 38-3.
15. "Moderate-Income Household" means any household whose Annual Income does not exceed 80% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.
16. "Neighborhood Business Establishment" means a business firm with fixed offices or distribution points located within the boundaries of the Chinatown/South Cove or Midtown Cultural District boundaries and with a business street address within such boundaries. A residential address may be used to establish status as a "Neighborhood Business Establishment".
17. "Proposed Project" means the substantial demolition, erection, or extension of any structure or part thereof, or the change of use of any structure or land, for which the Applicant is required to obtain a building or use permit.

18. "State Building Code" means the state building code and amendments and rules and regulations thereto as promulgated by the state building code commission under sections sixteen, seventeen, and eighteen of Chapter Twenty-Three B of the General Laws.
19. "Street Wall" means the exterior wall or portion of the exterior wall of a Proposed Project that faces a street on which such Proposed Project is located, and is below the Street Wall Height, determined pursuant to Section 38-10(2).
20. "Underlying Zoning" means all zoning regulations, with the exception of this article, which are contained in this code.
21. "Zoning Relief" means any zoning variance, exception, conditional use permit, interim planning permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.

